K 1946

File No. Charcoal Trade II/146.

Legal Department

B **BRANCH**

Subject:–

Rules and Notifications under the Charcoal Trade Licensing Order, 1944

E

File No. Charcoal Trade II/146.

Gen. 194 e.

296-B

Office of the R.L.A.

F.D. (Supply) proposes to substitute a new condition for the existing condition 2 of Form E appended to the Bombay Charcoal Trade Licensing Order, 1944, with a view to making it obligatory upon a licensee to purchase charcoal from a specified area only. It is very doubtful if this new condition will be legally binding upon the licensees to whom licenses have already been granted during the current year. If it is intended that the new condition should come into operation with immediate effect, it is necessary to amend the Order itself in the manner indicated in the draft sent herewith. F.D. (Supply) should verify if it is suitable from the administrative point of view. As the licenses is granted subject to the provisions of the Bombay Charcoal Trade Licensing Order, 1944, it is not necessary to insert theprovision of caluse 5 A in the new licenses.

Sd/- P.N.Moos
5/1/46

O.C.

Remembrancer of Legal Affairs.

U.R. to F.D. (s) No. 105, dated 7-1-1946

Mjr/13/7

4 Cs.

Offiee of the R.L.A.

It is not necessary to modify the existing condition 2 in Form E as suggested by F.D. (S)..The object can be achieved by inserting a new condition 2A in the Form. A draft Order inserting the necessary conditi n s sent herewith. The condition is practically in terms of clause 5A sent with R.L.A's No 105, dated 7-1-1946 to which it is presumed there is no objection from the administrative point of view.

2. F.D.(S) should consider whether a similar condition is not necessary in the case of the license for carrying on the business of a charcoal wholesaler (Form G.).

Sd/-. P.N.Moos

25/2/46

o.c.

Remembrancer of Legal Affairs.

U.R. to F.D. (S) No. 1569, dated the 25th February 1946.

Mjr/13/7

4 Cs.

IMMEDIATE

Office of the R.L.A.

It is not necessary in this case to consider the question whether recourse can be had to caluse 15 of the Bombay Charcoal Trade Licensing Order, 1944. for the purpose of exempting certain areas in the Ahmedabad District from the provisions of caluse 10 of that Order. Under that caluse the District Magistrate has power to fix from time to time the maximum prices of charcoal after obtaining the Provincial Government's approval thereto, To achieve the object in view, the District Magistrate should cancel his order fixing the maximum prices of charcoal in the case of Ahmedabad District and issue a fresh Order fixing the maximum prices of charcoal in respect of the Ahmedabad City Rationed Area and the Areas comprised within the Dholka Municipal limits, the Dhanduka Municipal limits and the Viramgam Municipal limits.

Sd/- P.N.Moos

o.c. 11/4/46

Remembrancer of Legal Affairs.

U.R. to Civil Supplies Department No 2762
dated the 11th April 1946.

Mjr/13/7

4 Cs.

Office of the R.L.A.

A revised draft order is sent herewith.

2. By item 3 of the Schedule appended to Government Order, Finance Department (Supply) No. 455/33073/IV-D dated the 31st December 1945 (printed at p. 1 of the Bombay Government Gazette Extra dated 2nd January 1946). a definition of the expression 'Bombay Subrban District' as meaning the Bombay Suburban District as constituted immediately before 1st October 1945, has been inserted in caluse 2 of the Bombay Charcoal Trade Licensing Order, 1944. As pointed out in paragraph 2 of R.L.A's opinion No 8155, dated 7th December 1945, it is not necessary to insert the definition of the expression 'Bombay Suburban District' in subsdiary orders issued under the Bombay Charcoal Trade Licensing Order, as a reference to the Bombay Suburban District in the subsidiary orders will mean a reference to the Bombay Suburban District as defined in the principal Order. The definition of the expression 'Bombay Suburban District' has not therefore been included in the revised order.

3. It is not necessary to publish the proposed Order in the manner laid down in sub-rule(1) of rule 119 of the Defence of India Rules,(See Government of India Defence Department letter No 5-DC(13)/45, dated the 6th November 1945).

Sd/- P.N.Koos

o.c. 29Ø4/46

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. 3169, dated the 29th Apr l 1946.

Mjr/13/7

4 Cs.

Office of the R.L.A.

Sub-clause (3) of clause 7 of the Bombay Charcoal Trade Licensing Order, 1944, provides that no charcoal dealer's license in Form E shall be granted to any person who in the opinion of the licensing authority has not been carrying on business as a charcoal dealer continuously throughout the year 1943. Similarly, sub-caluse (3) of caluse 8 of the Bombay Firewood Trade Licensing Order, 1944, provides that no retailer's license shall be granted to any person who in the opinion of the licensing authority has not been carrying on business as a retailer throughout the calender year 1943. It has been found that persons to whom charcoal dealers and retailer's licenses have been granted under the relevant caluses transfer their shops to persons who do not possess the requisite qualifications of having carried on the business throughout the year 1943. The intention appears to be to grant to such persons licenses although they do not possess the requisite qualification referred to. The papers are referred to the R.L.A. to suggest suitable amendments to the relevant caluses to give effect to Government's intention.

2. Under the proviso to sub-clause (3) of caluse 7 of the Bombay Charcoal Trade Licensing Order, 1944 and of caluse 8 of the Bombay Firewood Trade Licensing Order, 1944 the Provincial Government can for special reasons direct the issue of a charcoal dealer's license and of a retailer's license to any person. Under this proviso it is therefore open to Government either on application or suo motu to direct the licensing authority to issue license to any person even though such person does not possess the requisite qualification of having carried on business during the year 1943. No amendment of the Orders is, therefore, necessary to carry out the object in view.

O.C. Sd/- P.N.Moos 10/6/46
Remembrancer of Legal Affairs.

U.R. to C.S.D., No. 4269, dated the 11th June1946.
Mjr/13/7
4 Cs.

Office of the R.L.A.

The attention of the Civil Supplies Department is invited to Finance Department (Supply), Notification No. 32/IV-D(c)., dated the 14th August 1945, issued under clause 10 of the Bombay Charcoal Trade Licensing Order, 1944. That notification already fixes the wholesale and retail prices at which the charcoal is to be sold by a charcoal producer at the site of production. The Civil Supplies Department should consider whether it is intended to supersede the said notification so far as it applies to the sale of charcoal at the site of production.

Sd/- A.R.Khan

o.

for Remembrancer of Legal Affairs.

U.O.R. to C.S.D. No. 5138, dated the 20th July 1946.

Mjr/13/7

4 Cs.

Office of the R.L.A.

Clause 10 of the Bombay Charcoal Trade Licensing Order, 1944, provides that no charcoal importer, charcoal dealer, charcoal producer or charcoal wholesaler shall sel or offer to sell any charcoal at a price higher than that which may be fixed from time to time in the city of Bombay and the B.S.D. by the Provincial Government. In pursuance of this provision, the Provincial Government under F.D. (S) notification No 32/IV.D (c), dated the 14th August 1945, has fixed the prices in respect of certain qualities of charcoal in the City of Bombay and the B.S.D and even a charcoal producer selling charcoal at thesite of production cannot charge higher prices than those fixed by the said notification. There is nothing in the said notification to warrent the view taken by the C.S.D. Office that the notification does not fix the charges at which charcoal is to be sold by charcoal producers at the site of production. If it is intended to fix different prices for the sale of charcoal at the site of production, it is necessary to modfy the F.D. (S) Notfn. No. 32/IVD(c), dated the 14th August 1945. C.S.D. should therefore send a fresh notification in modification of the notification referred to above for the scrutiny of the R.L.A. if the intention is to fix different rates in the case of charcoal producers.

Sd/- A.R.Khan
O.C.
For Remembrancer of Legal Affairs.

U.R. to C.S.D. No 5598, dated the 10th August 1946.

Mjr/13/7

4 Cs.